

### *Urges Action In Advance of November Elections*

U.S. Rep. Rush Holt led a group of 18 members of Congress in urging U.S. Attorney General Eric Holder and the Department of Justice to enlist the Department's enforcement capabilities in advance of the November elections to ensure the viability of voting systems and that votes are counted as cast.

"There has never been a better time for the Department of Justice to act on a critically needed solution. As such, we ask the Department of Justice to employ its enforcement authority to ensure a voter-verified paper ballot for all votes cast, and manual audits of a random sample of those ballots to check corresponding electronic vote counts in those jurisdictions that are not already planning to perform them. The voters and the public deserve no less," they write.

In addition to Holt, signers included Reps. Tammy Baldwin (WI-2), Bruce Braley (IA-1), William Lacy Clay (MO-1), Charles Gonzalez (TX-20), Bart Gordon (TN-6), Alcee Hastings (FL-23), Martin Heinrich (NM-1), Steve Israel (NY-2), Barbara Lee (CA-9), Nita Lowey (NY-18), Carolyn Maloney (NY-14), Jerrold Nadler (NY-8), Frank Pallone (NJ-6), Thomas Perriello (VA-5), Steven Rothman (NJ-9), Betty Sutton (OH-13), and Melvin Watt (NC-12).

A copy of the letter is below:

The Honorable Eric Holder

Attorney General

U.S. Department of Justice

Robert F. Kennedy Building

950 Pennsylvania Avenue, NW

Washington, DC 20530-0001

Dear Attorney General Holder;

We are writing in advance of the November elections to enlist the U.S. Department of Justice's enforcement capabilities to ensure the viability of voting systems and that votes are counted as cast.

In the wake of the recent party primary in South Carolina for United States Senate that was accompanied by anecdotal reports of voting problems on election day and many questions about the accuracy of the vote count, the most important fact about South Carolina's voting system is that most ballots cannot be effectively audited or recounted. Serious concerns about the integrity of the primary and of other elections conducted using the same paperless technology are inevitable, and legitimate.

For the upcoming elections, 17 states are planning on using paperless direct recording electronic voting machines similar to those used in the election in the South Carolina primary. Six states have statewide unverifiable paperless electronic voting systems: Delaware, Georgia, Louisiana, Maryland, New Jersey and South Carolina. In eleven other states, a number of counties use unverifiable paperless systems: Arkansas, Colorado, Pennsylvania, Tennessee, Kansas, Texas, Kentucky, Indiana, Virginia, Mississippi, and Florida.

Where these systems are in use, for the vast majority of votes, voters cannot check to be sure their votes were recorded as intended, and election officials cannot conduct legitimate recounts or audits to prove that the machines are counting the votes correctly. When there is no reliable hard-copy record of the voters' intent to fall back on, election officials, candidates and the public are at the mercy of the counting software, which may or may not function correctly. Absent a "do-over" election using a system that can be recounted or audited, there is simply no way to know if the outcome was correct. In the 2008 report "

[Is America Ready to Vote](#)

, " South Carolina was rated inadequate for failing to offer the basics of a verified election: an auditable system, and manual audits of the system to check electronic counts.

In addition to lacking an effective means of verifying the results, this type of voting machine has been challenged in the past. The same voting system was used in Sarasota County, Florida's 2006 general election, which saw an abnormally large undervote rate in the 13th U.S. Congressional District race.

It has been argued that paperless systems do not require a means of conducting recounts of elections independently of computer software because the machines are "safe and secure" without them. But questionable elections like this one are inevitable no matter what voting system a state uses. When questions arise in jurisdictions that use voter-verified paper ballots, they can be resolved almost immediately, as happened in Pottawattamie County, Iowa in 2006, when a ballot programming error led to suspicious results. But in the cases of South Carolina, Florida and others the questions may never be answered.

The Voting Rights Act gives the Department of Justice the right to deploy Federal observers to verify the accuracy of the ballot count, but the vote count on a paperless machine cannot be observed for accuracy, as leading computer technologists inform us, even when the observers have a high level of training in software and in the workings of electronic voting systems. The Help America Vote Act gives the Department the responsibility of enforcing its provisions, which include a strong standard of accuracy in vote tabulation. But the accuracy of voting systems cannot be verified in live elections without a physical record verified by the voters prior to casting their ballots.

Therefore, we strongly urge the U.S. Department of Justice to use this moment to insist on voting systems that demonstrate trustworthiness rather than demand trust. There has never been a better time for the Department of Justice to act on a critically needed solution. As such, we ask the Department of Justice to employ its enforcement authority to ensure a voter-verified paper ballot for all votes cast, and manual audits of a random sample of those ballots to check corresponding electronic vote counts in those jurisdictions that are not already planning to perform them. The voters and the public deserve no less.